

A man with glasses and a light blue shirt is leaning over a kitchen counter, preparing vegetables. A woman with blonde hair, wearing a black top, stands beside him, looking on. The counter is filled with fresh produce including tomatoes, carrots, and a green pepper. There are also wine glasses and a bottle of wine on the counter. The background shows a bright window with greenery outside.

# MARRIAGE AND MONEY: FINANCIAL CONSIDERATIONS FOR SPOUSES

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# STATE OF MARRIAGE IN THE UNITED STATES

## MANY COUPLES DISAGREE ON ...

**Expected  
lifestyle in  
retirement**



**Where they  
will live in  
retirement**



**If they expect  
to work in  
retirement**



**Whether to  
hold accounts  
singly or jointly**



**Who should be the  
primary beneficiaries  
on their accounts**



# STATE OF MARRIAGE IN THE UNITED STATES

## IN FACT ...

**43%**

Of married couples disagree on what age they plan to retire<sup>1</sup>

**54%**

Of married couples disagree on how much should be saved by the time they retire<sup>1</sup>

<sup>1</sup> 2018 Fidelity Investments Couples & Money Study. 2018.

## IS YOUR RELATIONSHIP WITH EITHER SPOUSE STRONG ENOUGH TO SURVIVE THE PASSING OF ONE OF THE SPOUSES?

# 70%

Of widows fire their financial advisor after their husband's death.<sup>1</sup>

How often do you **engage** both spouses in the client relationship?

Are your recommendations driven by one spouse's **objectives** or both?

Do they **agree** on their retirement goals?

How **well** do your married clients get along?

<sup>1</sup> How Advisors Can Tailor Their Services For Widows. Financial Advisor. January 31, 2018.

## STATE OF MARRIAGE IN THE UNITED STATES



# STATE OF MARRIAGE IN THE UNITED STATES

**EXPERIENCE IN MATTERS OF MARRIAGE ENABLES YOU TO PROVIDE THE BEST POSSIBLE SERVICE TO MARRIED CLIENTS AND ALSO INCREASE THE RETENTION OF SURVIVING SPOUSES AS CLIENTS.**

**Married clients need specific guidance.**

- Most areas of financial planning have special rules for married couples
- Marriage poses specific financial planning challenges

**Nontraditional family structures are becoming increasingly prevalent.**

**Experience in matters of marriage enables you to:**

- Provide your best possible service to married clients
- Have a better chance of retaining the surviving spouse as a client after the first death

# FAMILY DYNAMICS

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Over 1,100 federal rights and obligations apply to those who are married.<sup>1</sup> The scope of rules specific to married clients touches all aspects of financial planning.

ESTATE  
PLANNING



ESTATE AND  
GIFT TAXES



RETIREMENT  
BENEFITS



FEDERAL  
INCOME TAXES



SOCIAL  
SECURITY



HEALTH INSURANCE  
AND EMPLOYER  
BENEFITS



<sup>1</sup> GAO-04-353R, Government Accountability Office, 2004

# AGENDA

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## Family Dynamics

- Same-Sex Marriage
- Divorce



## Retirement Considerations

- Social Security
- Healthcare
- Retirement income



## Estate Planning

- Death of a spouse
- IRA distribution options for spouses
- Estate planning landscape
- Credit shelter trust
- Incapacity



# FAMILY DYNAMICS





# SAME SEX MARRIAGE

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The Supreme Court has deemed that states cannot ban same sex couples from legally marrying.<sup>1</sup>



**Legally married couples** enjoy the same rights and privileges, regardless of gender.

- The Supreme Court ruling represents an opportunity to discuss planning strategies with married LGBT couples



**Registered domestic partnerships, civil unions or other relationships** are *not* considered marriages.

<sup>1</sup> Obergefell v. Hodges, 576 U.S. \_\_\_\_, 135 S.Ct. 2584 (2015)



# DIVORCE

**40%**

**Of marriages involve at least one partner getting remarried.<sup>1</sup>**

**2X**

**In the last 25 years, the U.S. divorce rate has more than doubled for people age 50+.<sup>2</sup>**

**3X**

**In the last 25 years, the U.S. divorce rate has nearly tripled for people age 65+.<sup>2</sup>**

<sup>1</sup> <https://www.pewresearch.org/fact-tank/2019/02/13/8-facts-about-love-and-marriage/>, Pew Research Center, 2019

<sup>2</sup> Age Variation in the Divorce Rate 1990 & 2017, National Center for Family & Marriage Research, 2019

# DIVORCE: FINANCIAL AND FAMILY IMPLICATIONS

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Divorce may not be something your clients will want to talk much about, but they will likely appreciate any guidance you can provide on these matters.



**Need to divide  
and transfer assets**



**Need to significantly  
revise their financial  
goals and strategies**



**Need a  
place to live**



**Lose an  
important  
source of care**



**Become isolated  
from family  
members**

# DIVORCE: DEVELOP A PROCESS

**SIMPLY HAVING A PROCESS OR CHECKLIST THAT OVERVIEWS THINGS TO KEEP IN MIND WHEN A CLIENT GETS DIVORCED CAN GO A LONG WAY.**

**DEVELOP AN ORGANIZED PROCESS FOR ASSISTING DIVORCING CLIENTS.**

**COMMUNICATE AND MANAGE ISSUES THAT NEED TO BE ADDRESSED:**

- Update beneficiary designations
- Suggest a review of POAs and advance directives
- Retitle accounts
- Social Security for divorced spouses
- Manage the transfer of assets
- Qualified plans and IRAs

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Department of the Treasury  
Internal Revenue Service

**Publication 504**  
Cat. No. 15006I

**Divorced  
or Separated  
Individuals**

For use in preparing  
**2020** Returns

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**Future Developments**

For the latest information about developments related to Pub. 504, such as legislation enacted after this publication was published, go to [IRS.gov/Pub504](https://www.irs.gov/pub504).

**Reminders**

**Change of withholding.** The Form W-4 no longer uses personal allowances to calculate your income tax withholding. If you have been claiming a personal allowance

Get forms and other information faster and easier at:  
• [IRS.gov](https://www.irs.gov) (English) • [IRS.gov](https://www.irs.gov) (Español) • [IRS.gov](https://www.irs.gov) (Chinese (Simplified)) • [IRS.gov](https://www.irs.gov) (Chinese (Traditional))  
• [IRS.gov](https://www.irs.gov) (Korean) (한국어) • [IRS.gov](https://www.irs.gov) (Russian) (Русский) • [IRS.gov](https://www.irs.gov) (Vietnamese) (Tiếng Việt)

Feb 16, 2021

IRS Publication 504, Divorced or Separated Individuals

# FAMILY DYNAMICS: SPLITTING ASSETS

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**THERE IS A MAJOR DIFFERENCE BETWEEN THE WAY ERISA QUALIFIED PLANS ARE SPLIT VERSUS THE WAY IRAS ARE SPLIT.**

## **ERISA Employer Sponsored Retirement Plans**

Qualified domestic relations order (QDRO) awards an interest in the plan.

### **OPTIONS:**

1. Leave the assets in the plan under the new name
2. Rollover the assets to an IRA
  - The client foregoes the exception to the 10% additional federal tax
3. Take the proceeds in cash
  - The distribution may be taxable, but no 10% additional federal tax will apply

## **IRAs**

Divorce Decree or agreement awards IRA assets. Interests in IRAs should be transferred instead of being made as a payment.

### **OPTIONS:**

1. Change the name on the IRA to the new owner
  - Only allowed if the former spouse is awarded the entire IRA
2. Transfer the awarded amount to another IRA
  - The IRA trustee transfers the interest amount to an IRA in the recipient's name

# FAMILY DYNAMICS: ACTION STEPS

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**Gather information about your clients' current family dynamics**



**Monitor changes to the family dynamics on a periodic basis**



**Gather resources and information to plan accordingly**

- Family structure, intended beneficiary(ies)
- Divorce and death of a spouse checklists
- Client's health issues, life expectancy
- Wills, POAs, advanced directives



# RETIREMENT CONSIDERATIONS



# RETIREMENT PLANNING: SOCIAL SECURITY

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**FILING FOR SOCIAL SECURITY BENEFITS IS ONE OF THE MOST IMPORTANT DECISIONS IN RETIREMENT THAT CLIENTS MAKE.**



Review prior and current marital status and other family dynamics.

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Determine who is eligible for a benefit on a client's record to ensure increase of benefits (spouse, ex-spouse). Nontraditional family structures are becoming increasingly prevalent.

## **SOCIAL SECURITY OPTIMIZATION STRATEGIES ARE OFTEN CENTERED UPON SPOUSAL FILING STRATEGIES:**

- File restricted application for spousal benefits (if born before 1954)
- Failure to coordinate spousal benefits can have a significant impact on the amount of benefits received over time
- Protection of the larger benefit for survivor benefit purposes is often the goal



# SOCIAL SECURITY: SPOUSAL BENEFITS

## SPOUSE

### SPOUSAL BENEFIT:

- **50%** of spouse's primary insurance amount at full retirement age
- May be taken at age **62**, but will be reduced

### SURVIVOR BENEFIT:

- **100%** of spouse's benefit at full retirement age or later
- **71½–99%** between age **60** and full retirement age
- **75%** if caring for a child under age **16**

## EX-SPOUSE

### DIVORCED SPOUSAL BENEFIT:

Eligible for the same retirement benefits and survivor benefits assuming:

- They are not remarried
- The marriage lasted at least **10** years
- The benefit under their own record is less than their ex-spouses

# RETIREMENT PLANNING: SPOUSAL BENEFITS

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## SPOUSAL BENEFITS FOR SOCIAL SECURITY REPRESENT THE GREATEST OPPORTUNITY TO MAXIMIZE BENEFITS. BELOW ARE SEVEN RULES THAT ARE ESSENTIAL WHEN DISCUSSING SOCIAL SECURITY WITH SPOUSES:

- 1** One spouse must file for their own Social Security benefit in order to allow the other spouse to file for spousal benefits.
- 2** Only one spouse can receive spousal benefits.
- 3** A spouse who files prior to full retirement age (FRA) does not get to choose which benefit they receive. Instead, they receive a combination of their own benefit and the spousal benefit.
- 4** A spousal benefit will be reduced if it is claimed prior to FRA.
- 5** If a spouse receives individual benefits prior to FRA, it permanently reduces that benefit, as well as spousal benefits.
- 6** A spouse (if born before 1954) who files at FRA can choose to receive their own benefit, a spousal benefit, or suspend benefits altogether. (A suspension of benefits after April 1, 2016, will suspend spousal benefits as well.)
- 7** Spousal benefits will never exceed 50% of the primary worker's benefit. No delayed credits are received for deferring the spousal benefit past FRA.

# SOCIAL SECURITY: RESTRICTED APPLICATION



**ELLEN**

PIA = \$1,000

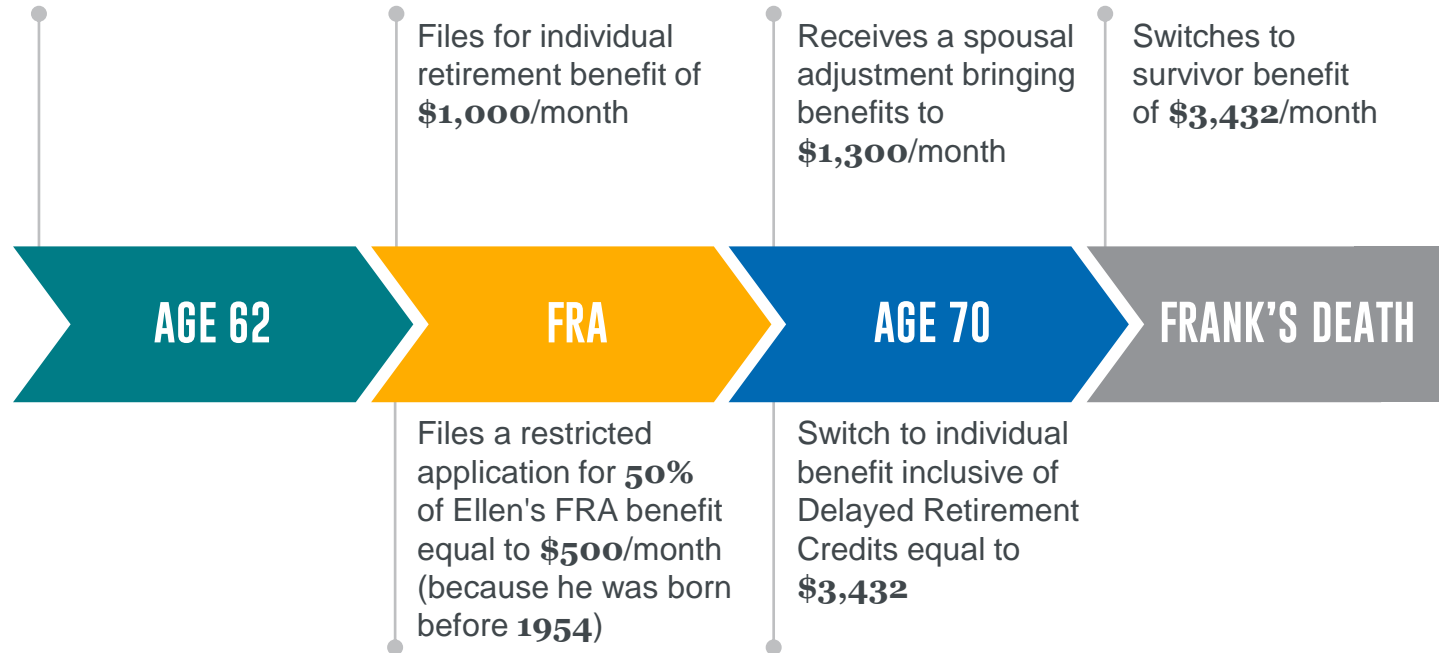
FRA = 66



**FRANK**

PIA = \$2,600

FRA = 66



This is a hypothetical illustration and does not guarantee or predict actual performance; benefit totals do not include COLA adjustments

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# SOCIAL SECURITY TAKEAWAYS

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**Gather information about your clients' current family dynamics**



**Review coordination spousal benefit scenarios to help your clients make an appropriate selection of payout and survival benefits**



**Help divorced or widowed spouses understand their Social Security benefit options**



# UNDERSTANDING DEFINED BENEFIT PLAN PAYOUT OPTIONS

PAYOUT OPTION	INCOME PROTECTION FOR SPOUSE	IMPACT ON PAYOUT AMOUNT
Lump Sum*	NONE	Single sum
Period Certain*	Remaining payments only	Limited series of payments
Single Life Only*	NONE	Largest lifetime payment
50% Joint and Survivor Option	50% of payment continues	Smaller lifetime payment
100% Joint and Survivor Option	100% of payment continues	Smallest lifetime payment

\* Spousal Consent May Be Required

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# RETIREMENT PLANNING: MEDICARE

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**GENERALLY SPEAKING, MEDICARE AND HEALTHCARE WILL HAVE ONGOING COSTS IN RETIREMENT. CONSIDER THESE FUNDING STRATEGIES TO ENSURE BOTH SPOUSES HAVE ADEQUATE CASH FLOW TO COVER THESE EXPENSES.**

**Medicare is an individual benefit – each person must enroll separately.**

Differences in age and employment status should be reviewed

**Medicare doesn't cover everything.**

Vision, hearing, dental, long term care supplemental insurance, copayments, deductibles

**Your clients need to do their homework and make important decisions.**

Traditional Medicare vs. Medicare Advantage  
Coverages and costs change yearly

**Review coordination of benefits with the employer**

Is one spouse working? Who will be covered?

**Be aware of initial and annual enrollment deadlines**

Failure to enroll can result in penalties



# COORDINATION OF BENEFITS & INTERIM COVERAGE

---

**IF THE CLIENT OR THEIR SPOUSE IS COVERED UNDER AN EMPLOYER PLAN, THEY SHOULD CHECK WITH THE PLAN TO DETERMINE COORDINATION OF BENEFITS.**

**= Spouses are  
the same age**

**OPTION #1:**

Both enroll at age 65

**OPTION #2:**

Continue employer  
provided coverage if  
either spouse is working

**< Working spouse  
is older**

The younger spouse is not yet eligible  
for Medicare and will lose dependent  
coverage if the older spouse retires:

**OPTION #1:**

COBRA – Only a solution for 18 months

**OPTION #2:**

Private insurance

**OPTION #3:**

Continued employment

**> Working spouse  
is younger**

**OPTION #1:**

Older spouse enrolls at age 65

**OPTION #2:**

Determine how the employer  
insurance of the younger spouse  
works with Medicare

# MEDICARE: HEALTHCARE FUNDING STRATEGIES

---

**CONSIDER THESE FUNDING STRATEGIES TO HELP BOTH SPOUSES HAVE ADEQUATE CASH FLOW TO COVER THESE EXPENSES.**

## **BUDGET FOR ONGOING COSTS**

Include supplemental insurance premiums, co-payments, deductibles, and an extra allocation for unexpected expenses.

Review Part B coverage from Social Security payments.

## **CREATE STREAMS OF INCOME TO COVER HEALTHCARE EXPENSES**

Consider multiple sources of income to account for changing healthcare costs and unexpected events.

## **REVIEW THE IMPACT OF MODIFIED ADJUSTED GROSS INCOME (MAGI) ON MEDICARE PREMIUMS**

Medicare parts B & D are based on MAGI (2 years prior).

Consider ways to reduce income or increase non-reportable income.

# RETIREMENT PLANNING: ACTION STEPS

---

**CONSIDER THESE FUNDING STRATEGIES TO HELP BOTH SPOUSES HAVE ADEQUATE CASH FLOW TO COVER THESE EXPENSES.**



**Review Social Security filing strategies to maximize benefits**



**Review defined benefit plan distribution options**

- Consider alternative strategies based on personal and financial circumstances



**Review Medicare options and establish cost estimates**

- Employer plan, if eligible, may require coordination of benefits
- Estimate MAGI and income-related Medicare costs

# ESTATE PLANNING







# FAMILY DYNAMICS: LOSS OF A SPOUSE

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**YOU CAN HELP YOUR CLIENT HANDLE THE EMOTIONAL TOLL OF LOSING A SPOUSE BY PROVIDING SOME BASIC GUIDANCE AND ASSISTANCE.**

**DEVELOP AN ORGANIZED PROCESS FOR CLIENTS WHO HAVE LOST A SPOUSE.**

**UTILIZE OR RECOMMEND A CHECKLIST OF THINGS TO DO:**

- Help your clients organize legal and financial documents
- Help clients submit claims, collect benefits and update financial accounts
- Help clients tie up loose ends needed for them to file their tax returns
- When appropriate, schedule a meeting to update their financial strategy

# IRA BENEFICIARY PLANNING FOR SURVIVING SPOUSES

---

**THE DECISION TO ROLLOVER THE ASSETS INTO THE SPOUSE'S IRA OR LEAVE THE ASSETS IN THE DECEDENT'S NAME SHOULD BE CAREFULLY REVIEWED.**

**THE SPOUSE'S AGE AND INTENT CAN HELP YOU IN DEVISING AN APPROPRIATE STRATEGY.**

Spouses have multiple options to receive their deceased spouse's IRA assets when named as the primary beneficiary:

## **LUMP SUM**

Immediately income taxable, no 10% penalty

## **OUT-IN-TEN YEARS**

Taxable as distributed, no 10% penalty

**ANNUITIZATION** (available for annuity contracts) Taxable as income payments are received, no 10% penalty

## **SYSTEMATIC PAYOUT OVER SURVIVING SPOUSE'S LIFE EXPECTANCY ("stretch")**

Taxable as distributed, no 10% penalty

## **SPOUSAL ROLLOVER** (spousal continuation in annuity contracts)

The spouse is treated as the owner and all distributions are based on their age.

# ESTATE PLANNING

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## AGE AND THE NEED FOR INCOME ARE MAJOR VARIABLES IN DETERMINING WHICH OPTION IS BEST FOR A SURVIVING SPOUSE.

### Spouse is younger than 59 ½ and does not need income

- The spouse can rollover the proceeds into an IRA in their name
- It becomes their IRA and;
- RMDs and the 10% pre-59½ additional federal tax are based on the spouse going forward

### Spouse is younger than 59½ and needs income

- The account stays in the deceased's name "FBO" the surviving spouse
- Since payment is made to a beneficiary, no 10% additional federal tax
- The spouse can rollover the account into their own name at any time

### Surviving spouse does not need income

- If the spouse passed away prior to age 72, the surviving spouse would not be required to distribute anything until the deceased would have reached 72
- This option may be useful when the deceased was under age 72 and the surviving spouse is older than age 72

# IRA: NAMING A TRUST AS A BENEFICIARY



**Husband's IRA**  
OWNER:  
HUSBAND



**Husband's  
Revocable Trust**  
OWNER:  
REVOCABLE TRUST



**Beneficiaries of  
Husband's Trust**  
(wife, children, college)

**ONE COMMON IRA BENEFICIARY DESIGNATION IS NAMING A TRUST AS A BENEFICIARY.**

When the husband passes away the IRA will be payable to the trust. The wife will not be allowed a spousal rollover since she is not the sole beneficiary of the trust.

The trust will not be permitted a stretch because one of the beneficiaries is an entity.

**TO BE PERMITTED A STRETCH OPTION THROUGH A TRUST, THE TRUST MUST:**

- Be irrevocable at death
- Contain individual beneficiaries
- Have identifiable beneficiaries
- Be valid under state law
- Submit the trust document to the IRA custodian

# IRA: NAMING A TRUST AS A BENEFICIARY

**ONE COMMON IRA BENEFICIARY DESIGNATION IS NAMING A TRUST AS A BENEFICIARY.**



**Husband's IRA**  
**OWNER:**  
**HUSBAND**



**Beneficiary:**  
**WIFE**



**Contingent**  
**Beneficiary:**  
**HUSBAND'S**  
**REVOCABLE TRUST**

When the husband passes away, the IRA will be payable to the wife. The wife will have all of the beneficiary options provided to a spouse beneficiary. The wife also has the option to disclaim the account to the trust. This designation provides the flexibility for the wife to decide the best option after the husband passes away.

# ESTATE TAX PLANNING LANDSCAPE FOR SPOUSES

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**SPOUSES CAN TRANSFER UNLIMITED AMOUNTS TO EACH OTHER FREE OF TAXES (WHILE ALIVE AND AFTER DEATH) THROUGH THE USE OF THE UNLIMITED MARITAL DEDUCTION.**

**2021 ESTATE TAX AND LIFETIME GIFT TAX EXCLUSION IS \$11.7 MILLION PER PERSON.**

- The exclusion is portable between spouses
- Portability must be elected on IRS form 706 (U.S. Estate Tax Return)

**THE ANNUAL GIFT TAX EXCLUSION IS \$15,000 PER PERSON PER YEAR.**

- Spouses can make split gifts of \$30,000, a gift tax return is required

**STATE ESTATE TAXES AND COMMUNITY PROPERTY STATE RULES SHOULD BE REVIEWED WITH A KNOWLEDGEABLE ESTATE PLANNING ATTORNEY.**

- AZ, CA, ID, LA, NV, NM, TX, WA, WI, \*AK – Alaska has adopted a community property system, but it is optional



# ESTATE TAX DYNAMIC

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**WITH THE ADVENT OF SPOUSAL PORTABILITY, THE NEED TO SEGMENT AN ESTATE AND UTILIZE STRATEGIES SUCH AS CREDIT SHELTER TRUSTS HAS COME INTO QUESTION.**

Estate tax exclusion portability has eliminated the necessity of utilizing a credit shelter trust (CST) to preserve both spouse's exclusions.

## **SPOUSES MAY HAVE BEEN INSTRUCTED TO SEGMENT THEIR ESTATE AND OWN ASSETS INDIVIDUALLY.**

- Prior to portability of the estate tax exclusion, splitting assets was required to ensure that both spouses utilized their exclusion
  - One strategy was to place the exclusion of the first spouse to die into a credit shelter trust

## **CREDIT SHELTER TRUST PLANNING CAN STILL BE A VALUABLE PLANNING TOOL**

- Children from previous marriages
- The exclusion could be reduced in the future
- Growth of the assets could cause estate tax implications
- By transferring the assets to a trust, the growth is sheltered from estate tax

# ESTATE PLANNING: ALZHEIMER'S

**TODAY, MORE THAN 6.2 MILLION AMERICANS ARE LIVING WITH ALZHEIMER'S DISEASE. BY 2050, CLOSE TO 12.7 MILLION WILL HAVE THE DISEASE<sup>1</sup>.**

- It's not "if" your clients will be impacted, it is "how many"
- Be prepared and provide resources to help your clients prepare for and manage the illness
- Be aware of warning signs



<sup>1</sup> 2021 Alzheimer's disease Facts and Figures; Alzheimer's Association  
**For Financial Professional Use Only. Not for Use With the Public.**

Transamerica's *A Financial Professional's Field Guide to Financial Strategies For Those Living With Dementia*



# ESTATE PLANNING: ALZHEIMER'S

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**ONE OF THE MOST IMPORTANT THINGS TO BE AWARE OF AS A FINANCIAL PROFESSIONAL IS THAT TIMING IS CRITICAL WHEN SOMEONE IS DIAGNOSED WITH THE DISEASE.**

**Alzheimer's is a progressive disease.**

- Alzheimer's patients are prone to money mismanagement, poor financial choices, and are susceptible to elder fraud

**Legal decisions and documents will be required.**

- To draft certain legal documents, the client may be required to demonstrate “legal capacity” to make decisions
  - Wills
  - Advance directives
  - POAs

# ESTATE PLANNING: POWER OF ATTORNEY

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**THERE IS MORE THAN ONE TYPE OF POA. IT IS IMPORTANT FOR SPOUSES TO UNDERSTAND WHAT POWERS THEIR POA PROVIDES AND WHEN IT BECOMES EFFECTIVE.**

## **GENERAL POWER OF ATTORNEY**

Grants broad powers, terminates upon death, disability or incapacitation.

## **DURABLE POWER OF ATTORNEY**

Includes a durable clause that keeps the POA in force after the incapacity of the principal but will end upon death.

## **SPECIAL OR LIMITED POWER OF ATTORNEY**

The agent is only granted power over limited or specific areas, such as finances or healthcare.

## **SPRINGING POWER OF ATTORNEY**

The POA is not active until the occurrence of a specific event.

# IN CONCLUSION

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## Family Dynamics

- Same-Sex marriage
- Divorce



## Retirement Planning

- Social Security
- Healthcare
- Retirement income planning



## Estate Planning

- Death of a spouse
- IRA distribution options for spouses
- Estate planning landscape
- Credit shelter trust planning
- Incapacity

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# QUESTIONS?

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